

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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PATRICK MORIN and JOSEPH OLIVIERI, as
Trustees of the EMPIRE STATE CARPENTERS
WELFARE PENSION, VACATION, ANNUITY,
SCHOLARSHIP, APPRENTICE-TRAINING,
LABOR-MANAGEMENT COOPERATION, and
CHARITABLE TRUST FUNDS,

Plaintiffs,

-against-

PLS CONSTRUCTION SERVICES, LLC and
PETER L. SMITH,

Defendants.

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APPEARANCES:

Slevin & Hart, PC

Attorneys for the plaintiffs

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By: Christopher James Schulte, Esq., of Counsel

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NO APPEARANCE

PLS Construction Services, LLC

Peter L. Smith

ORDER

09-cv-814(ADS) (ETB)

SPATT, District Judge.

The plaintiffs commenced this action on or about February 26, 2009, asserting claims pursuant to the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended, 29 U.S.C. §§ 1132(a)(3) and 1145, and Section 301 of the Labor Management Relations Act of 1948 (“LMRA”), 29 U.S.C. § 185. On May 29, 2010, the Court entered a default judgment against the defendants, and referred the matter to United States Magistrate Judge E. Thomas Boyle for an inquest as to damages. On January 13, 2011, Judge Boyle issued a thorough Report recommending that the plaintiff be awarded damages in the amount of: (1) unpaid contributions in the amount of \$63,485.09; (2) interest through November 24, 2010 in the amount of \$5,909.08, plus additional interest through the date of judgment entered herein, to be calculated at a rate of 3.25% per annum, or 0.27% monthly, compounded; (3) liquidated damages in the amount of \$12,697.02; (4) postjudgment interest, to be calculated pursuant to 28 U.S.C. § 1961; (5) attorney’s fees in the amount of \$7,534.00 and, (6) costs in the amount of \$679.87. To date, no objection has been filed to Judge Boyle’s Report and Recommendation.

In reviewing a report and recommendation, a court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United

Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Boyle's Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Boyle's Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

ORDERED that Judge Boyle's Report and Recommendation is adopted in its entirety, and it is further

ORDERED that the Clerk of the Court is directed to enter a default judgment against the defendants in the amount recommended by Judge Boyle; and it is further

ORDERED that the Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
March 17, 2011

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge